

MARYLAND BOARD OF PODIATRIC MEDICAL EXAMINERS



TOE THE LINE

Volume 23, Issue 2

Fall 2008

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MEDICAL RECORDS: RETENTION, STORAGE, AND DISPOSAL

The Maryland Department of Health and Mental Hygiene's new regulations COMAR 10.01.16 Retention and Disposal of Medical Records and Protected Health Information became effective March 24, 2008 and are available online: www.dsd.state.md.us/comar/subtitle_chapters/10_Chapters.htm#Subtitle01.

Medical Records Facts:

1. Medical Records Ownership.

Medical records are the personal property of the entity providing the health care. Periodically, patients argue that they own their medical record, and demand their original files. This is incorrect. Patients can demand, and should receive, only copies of their medical record.

2. Retention Schedule. Every health care entity must have a medical record retention schedule that includes a list and description of the medical records, the retention period for each medical record, and destruction instructions. The schedule, as a matter of good housekeeping, should include storage and maintenance procedures and disposal methods.

3. Storage. Medical records must be stored in an office that has access restricted to authorized staff. Electronic medical records must be stored on an electronic medium with passwords or data encryption. Health care entities

must keep current back-up copies of those electronic medical records. If medical records are stored at a commercial records storage site, that site must have environmental and security access controls.

4. Paper Record Destruction.

Medical records kept on paper must be destroyed by shredding, incineration, or pulping or any other process that makes the record permanently unreadable.

5. Electronic or Other Media Destruction.

Medical records stored in electronic media, such as computer hard drives, must be destroyed by completely sanitizing the media with no possibility of recovery. For example, mere deletion of a file is not enough. Medical records on other media, such as film or photos, must be destroyed without the possibility of recovery.

6. Other Laws. Medical records in Maryland cannot be destroyed until after five (5) years or, for a minor patient, the longer of three (3) years after the minor turns 18 or five (5) years after the medical record was made. HIPAA regulations require that patient documents must be kept a minimum of six (6) years.

7. Early Destruction. Before a health care entity can destroy a medical record prematurely, written notice must be sent to the patient (or the patient's guardian in some cases) at least thirty (30) days before the destruction date.

8. Violations. Health care entities that violate the Medical Records Destruction law are subject to fines of up to \$10,000 per day. Individual health care providers or administrators may be fined up to \$5,000 per day.

WELCOME

Governor Martin O'Malley appointed **Steven G. Chatlin, D.P.M., Jay S. LeBow, D.P.M., and Barbara A. Crosby, RN, BSN** to serve four year terms on the Board of Podiatric Medical Examiners. The Board extends best wishes and thanks to **Ira M. Deming, D.P.M. and Dennis M. Weber, D.P.M.** for their two terms of dedication and service to the Board.

Invoices Delayed

The mailing of licensing fee invoices that usually occurs in October will be delayed pending notification from the Office of Regulation & Policy Coordination of the effective date of the Board's new fees schedule regulations. Invoices will be mailed and the December 1, 2008 due date for the payment of annual licensing fees will be adjusted. The required annual payment toward the 2010-2011 licensing fees will be **\$525.00**

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NEW LICENSES

Chanelle R. Carter, DPM

Lee T. Keenen, Jr., DPM

Yolanda Ragland, DPM

Mildred E. Sartee, DPM

Michael R. Smith, Jr., DPM

Timothy D. Swartz, DPM

REINSTATED LICENSES FROM INACTIVE STATUS

H. David Gottlieb, DPM

Daniel McCreary, DPM

THE MARYLAND SELF-REFERRAL LAW

Subject to numerous exceptions, the Maryland Self-Referral Law prohibits you and your employees from referring patients to an entity in which you have an ownership interest or compensation arrangement; or in which you in combination with your immediate family have an ownership interest; or in which your immediate family has an ownership interest of 3% or greater; or in which your immediate family, or you in combination with your immediate family has a compensation arrangement.

Of the many exceptions, you will want to be particularly aware that the Maryland Self-Referral Law does not apply when you make a referral to another health care practitioner who is in the same group

practice as you; or when you make referrals to in-office ancillary services or tests that are furnished by you or a practitioner in your group practice or by an individual employed by you and who is directly supervised by you or a practitioner in your group practice and are furnished in the same building in which your practice is located; or when you refer a patient to a health care entity in which you have a beneficial interest for health care services or tests that are personally performed by or under your direct supervision. The Board encourages you to consult with private counsel in order to determine whether your particular circumstance meets the requirements for an exception to the Maryland Self-Referral Law.

When making lawful referrals to entities in which you have an ownership interest, you must, unless covered by an exception, disclose the existence of the interest to the patient. Subject to exceptions, you must provide patients with a written statement disclosing the existence of the interest, and stating that the patient may choose to obtain health care service from another health care entity. The patient must acknowledge, in writing, receipt of the statement a copy of which is to be placed in the patient's medical record. Finally, you must conspicuously display written notice which can be read from a distance of eight (8) feet, disclosing all of the health care entities in which you or an immediate family member has an ownership interest.

Failure to comply with the provisions of the Maryland Self-referral Law may result in the Board taking disciplinary action against you.

David J. Freedman, D.P.M.

X RAYS – Office Based Studies

In the course of reviewing medical records, the Board often finds incomplete information.

Documenting x-rays, a part of your medical record, requires specific information.

Identifiers required:

1. Patients name
2. Provider and / or Practice Name ordering the study
3. Date of study
4. Medical record # and or DOB
5. Which foot / ankle
6. Report - Should include the indications for the study, which views were taken and the observed findings/impressions. Additionally, it may be necessary to list a plan

of action if additional studies are medically necessary. (i.e.: MRI, CT, Bone Scan, Ultrasound etc.)

Items 1-5 should be contained on the film / image itself whether it is traditional film or digital images.

Items 1-6 should be contained in the report of the radiograph study.

The decision to imbed the report / findings into the body of the medical note or to have a separate report is at the discretion of the Podiatric physician.

Ira J. Gottlieb, D.P.M.

Special Notice

The Maryland Board of Podiatric Medical Examiners Newsletter is considered an official method of notification to podiatrists. **These Newsletters may be used in administrative hearings as proof of notification.** Please read them carefully and keep them for future reference.

CHANGE OF ADDRESS

In accordance with §16-309 of the Annotated Code, "Each licensee shall notify the Board of any change of address". Board policy dictates that all requests for change of address be submitted to the Board in writing and include the signature of the licensee. A fine for non-compliance will be issued to podiatrists who fail to maintain a correct address with the Board.



PROPOSED REGULATIONS FEES SCHEDULE

PUBLIC DISCIPLINARY ACTIONS

Regulations to revise the fees schedule are in the promulgation process. The proposed fees schedule is as follows with a pending effective date:

.02 Fees.

A. License fees:

(1) (1-1) (text unchanged)

(1-2) Original license fee:

(a) January issue ... [\$850] \$1050;

(b) July issue ... [\$650] \$850;

(2) Limited license fee ... [\$50] \$100;

(3) (4) (text unchanged)

B. License renewal fees:

(1) Biennial license renewal fee (payable in [\$425] \$525 annual payments) ... [\$850] \$1050;

(2) Inactive license renewal fee (payable annually) ... [\$25] \$50;

(3) Late renewal fee ... [\$100] \$250;

C. Reinstatement fees:

(1) Reinstatement of inactive license processing fee... [\$200] \$300;

(2) Reinstatement of expired license processing fee... [\$200] \$500;

(3) Reinstatement of inactive or expired license fees:

(a) January issue ... [\$850] \$1050;

(b) July issue ... [\$650] \$850;

D. Other fees:

(1) Certification of license fee ... [\$25] \$30;

(2) Duplicate license fee ... [\$25] \$50;

(3) Registration of professional corporation fee ... [\$50] \$100;

(4) Dispensing prescription drug permit fee (payable every 5 years) ... [\$25] \$50;

(5) Penalty for failure to maintain correct address with the Board ... [\$100] \$300;

(6) Roster of licensees fee ... [\$100] \$500;

(7) Request for copy of public orders ... [\$25] \$50.

Albert Shoumer, DPM
Probation 5/14/2008



Continuing Medical Education

October 18 & 19, 2008
2008 Symposium on the
Geriatric Foot & Ankle

At :

The Mt. Sinai Medical Center

Approved for:

14.25 CMEs

December 6 & 7, 2008
Science and Pearls of Foot &
Ankle Pathology

At:

LaGuardia Marriott Hotel

Approved for:

12 CMEs

Sponsored by:

New York College of Podiatric
Medicine

www.nycpm.edu/cmelist.asp

MEDICAL RECORDS COPYING CHARGES

The law¹ allowing physicians to charge specific sums for preparation and production of medical records allows for these fees to be adjusted annually for inflation using the Consumer Price Index on July 1 of each year. The FY 2009 adjusted rates for medical record copying are as follows: a preparation fee of no more than \$22.18 (Please

note that preparation fees can be charged to hospitals and insurance companies, but not patients) plus a fee of no more than **73** cents per page copied, plus the actual cost of shipping and handling.

Annual rate adjustments are available on the Maryland State Medical Society (MedChi) website at www.medchi.org.

1 Health General Article § 4-304(c)(3)



The Maryland Health
Care Commission
(MHCC) announced
that the FY 2009 user
fee for biennial
renewals will be
\$32.00.

MARYLAND BOARD OF PODIATRIC MEDICAL EXAMINERS

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We're on the Web!
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BOARD MEETING SCHEDULE

October 2, 2008

November 13, 2008

December 11, 2008

January 8, 2009

February 12, 2009

March 12, 2009

April 2, 2009

The Board of Podiatric Medical Examiners meets the second Thursday of each month at the Department of Health and Mental Hygiene, 4201 Patterson Avenue, Baltimore, MD 21215. The public is invited to the Open Session of the meeting which begins at 1:00 p.m. Please note that the Board does not schedule an August meeting and the October 2008 and April 2009 meetings are scheduled for the 1st Thursday of the month. For further information or to place an item on the public agenda, please contact the Board office.

ADVERTISING REGULATIONS AND REMINDERS

Advertising complaints reviewed by the Board often concern office stationery, business cards and telephone directory listings that do not identify the doctor as a podiatrist and/or do not identify certifying boards.

The advertising of podiatric services in Maryland must comply with The Code of Maryland Regulations 10.40.06.03(C) (9) ...

"That fail to state that the practitioner is a podiatrist."

The title "doctor" or any abbreviation cannot be used without the qualification "podiatrist", "podiatric physician", "Doctor of Podiatric Medicine", or other appropriate designation.

The Board requires that you always list the entity associated

with your board certification and utilize the approved advertising designations and language of the certifying board. The Board has endorsed the American Podiatric Medical Association guidelines for advertising, and as such only recognizes certifications from the American Board of Podiatric Surgery (APBS) and the American Board of Podiatric Orthopedics and Primary Podiatric Medicine (ABPOPPM).

CPR REQUIRED FOR INITIAL LICENSURE AND ALL LICENSE RENEWALS

Effective December 1, 2007, **Cardio Pulmonary Resuscitation (CPR) certification [Basic Life Support for Healthcare Professionals] is required for initial licensure and all license renewals.**

Evidence of CPR certification must be provided for audit compliance or upon request of the Board. CPR certification

and/or recertification courses are approved for a maximum of 3 CME Category A credits. CPR certification courses are available from the following organizations:

American Red Cross

www.redcross.org
1-800-REDCROSS
1-800-733-2767

American Heart Association

www.americanheart.org
1-877-AHA-4CPR
1-877-242-4277

